IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10460 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RECREATION CLUB

Versus

COLLECTOR OF DAHOD

Appearance:

1. Special Civil Application No. 10460 of 2003

MR MUKESH R SHAH for Petitioner No. 1

MR LB DABHI, AGP, for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 04/03/2004

ORAL JUDGEMENT

Rule. Service of rule is wived by learned AGP Shri L.B. Dabhi for the respondent. At the request of

the learned advocates, the petition is finally heard today.

2. The petitioner has been aggrieved by an order passed in July 2003 by the respondent, as the impugned order had been passed without hearing the petitioner or any of the representatives of the petitioner-club.

3. Learned advocate Shri RN Shah appearing for the petitioner has submitted that the petitioner is a recreation club, which was constituted in 1909. By virtue of the impugned order, the constitution of the club has been changed by the respondent and ownership in respect of the land belonging to the petitioner club has also been changed. His main grievance is that the impugned order was passed without hearing any of the representatives of the club or without giving any opportunity of being heard to the office bearers of the club.

4. Learned AGP Shri Dabhi appearing for the respondent has filed an affidavit of the Deputy Collector and Prant Officer, Dahod. The said affidavit nowhere states that before passing the impugned order, any of the office bearers of the petitioner club was heard or any notice was given to the petitioner. The learned AGP had to concede that without hearing the petitioner, the impugned order had been passed, which has got civil consequences and which adversely affects the petitioner club.

5. Looking to the fact that the impugned order was passed without hearing any of the representatives of the petitioner club, the said order is violative of the principles of natural justice and, therefore, it is quashed and set aside. Needless to say that it would be open to the respondent to issue notice to the petitioner calling upon it to show cause as to why a particular action should not be taken by the respondent and upon hearing the petitioner, it would be open to the respondent to pass an appropriate order in accordance with law. The impugned order passed by the Collector in July, 2003, which is at Annexure 'H' to the petition, is quashed and set aside.

The petition stands disposed of as allowed. Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

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